

# HOUSE . . . . . No. 3601

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 29, 2013.

The committee on Ways and Means, to whom was referred the Senate Bill further regulating mercury management (Senate, No. 1758), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 3601.

For the committee,

BRIAN S. DEMPSEY.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Chapter 21H of the General Laws is hereby amended by inserting after section 6J  
2 the following section:-

3 Section 6J 1/2. (a) As used in this section, the following words shall, unless the context  
4 clearly requires otherwise, have the following meanings:

5 “Contractor”, a person engaged in the business of installation, service or removal of  
6 heating, ventilation and air-conditioning components.

7 "Department", the department of environmental protection.

8 “Local government authority”, a household hazardous waste facility, a solid waste  
9 management agency, an environmental management agency or a department of public health.

10 "Manufacturer", an organization or entity that sells or sold a mercury-added thermostat  
11 under a brand or label it owns or is or was licensed to use a brand or label for a mercury-added  
12 thermostat produced by other suppliers.

13 "Mercury-added thermostat", a product or device that uses a mercury switch to sense and  
14 control room temperature through communication with heating, ventilating or air-conditioning  
15 equipment, including thermostats used to sense and control room temperature in residential,  
16 commercial, industrial and other buildings, but excluding thermostats used to sense and control  
17 temperature as part of a manufacturing process.

18 "Person", an individual, trust, firm, joint stock company, corporation, including a  
19 government corporation, partnership, association, the federal government or any agency or  
20 subdivision thereof, a state, municipality, commission, political subdivision of a state or any  
21 interstate body.

22 "Qualified contractor", a person engaged in the business of installation, service or  
23 removal of heating, ventilation and air-conditioning components who employs 7 or more service  
24 technicians or installers or who is located in an area outside of an urban area, as defined by the  
25 United States bureau of the census.

26 "Thermostat retailer", a person that sells thermostats of any kind directly to homeowners,  
27 other non-professionals or contractors through any selling or distribution mechanism, including,  
28 but not limited to, sales using the internet or catalogs.

29 "Thermostat wholesaler", a person engaged in the distribution and wholesale sale of  
30 thermostats and other heating, ventilation and air-conditioning components to contractors who  
31 install heating, ventilation and air-conditioning components.

32 (b)(1) A thermostat wholesaler shall not offer for final sale, sell at final sale or distribute  
33 any thermostat unless that thermostat wholesaler acts as a collection site for mercury-added  
34 thermostats.

35                   (2) A thermostat wholesaler shall meet the requirements of this section by  
36 participating as a collection site in a collection program established pursuant to subsection (d), or  
37 by collecting mercury-added thermostats and managing the collected mercury-added thermostats  
38 in accordance with applicable federal and state laws governing the disposal of universal waste.

39                   (3) A thermostat wholesaler, qualified contractor or thermostat retailer acting as a  
40 collection site shall provide visible signage identifying the location as a collection location for  
41 waste mercury thermostats.

42                   (4) A thermostat wholesaler or thermostat retailer shall not offer for final sale, sell  
43 at a final sale or distribute any thermostat of a manufacturer that is not in compliance with this  
44 section.

45                   (c)(1) Except as otherwise provided in this section, no person shall dispose of a mercury-  
46 added thermostat in a manner other than by recycling or disposal as hazardous waste.

47                   (2) A contractor that removes a mercury-added thermostat from a building shall  
48 deliver that thermostat to a collection site established under subsection (d) for recycling.

49                   (3) A person who demolishes a building shall remove any mercury-added  
50 thermostats from the building prior to demolition and shall deliver the removed thermostats to a  
51 collection site established under subsection (d) for recycling or by collecting mercury-added  
52 thermostats and managing the collected mercury-added thermostats in accordance with  
53 applicable federal and state laws governing the disposal of universal waste.

54                   (4) A person who removes a mercury-added thermostat from a location that is  
55 participating in an energy efficiency or weatherization program supported or administered in

56 whole or in part by a department, agency, authority or political subdivision of the commonwealth  
57 or conducted as a result of any statutory requirement, including, but not limited to, demand-side  
58 management or least-cost procurement, shall deliver that thermostat to a collection site  
59 established under subsection (d) for recycling.

60 (5) No municipal or private solid waste hauler or operator of a solid waste  
61 disposal facility shall knowingly dispose, or allow to be disposed, a mercury-added thermostat as  
62 solid waste unless the mercury has been first removed by recycling or disposed as hazardous  
63 waste. A solid waste facility may knowingly accept or collect mercury-added thermostats for  
64 proper disposal if the device is segregated from solid waste and stored in an identified recycling  
65 container; provided, that the facility participates in a manufacturer's program as a collection site  
66 or has established a collection site to collect, manage and dispose of mercury-added thermostats  
67 as hazardous waste in accordance with applicable federal and state waste disposal laws and  
68 regulations. No operator of a solid waste disposal facility shall be found to be in violation of this  
69 section if the operator: (i) makes a good-faith and consistent effort to comply with this section;  
70 (ii) posts, in a conspicuous location at the facility, a sign stating that mercury-added thermostats  
71 are not accepted at the facility; and (iii) notifies, in writing, any person authorized to deposit  
72 solid waste at the facility that mercury-added thermostats are not accepted at the facility.

73 (d) Each thermostat manufacturer that has distributed, offered for final sale or sold at  
74 final sale any mercury-added thermostat within the commonwealth shall, individually or  
75 collectively:

76 (i) make collection containers available to each thermostat wholesaler, thermostat  
77 retailer, qualified contractor and local government authority within the commonwealth that

78 requests a container, ensuring that those containers are accompanied by information regarding  
79 the proper management of mercury-added thermostats as universal waste, in accordance with the  
80 collection program and the department's rules and regulations;

81 (ii) establish a system to collect, transport and properly manage, which may  
82 include but shall not be limited to recycling, out-of-service mercury-added thermostats from all  
83 collection sites established under this section; and

84 (iii) collect no fees or other charges for participation in the program, except that  
85 each thermostat wholesaler, thermostat retailer, qualified contractor and local government  
86 authority that is provided with 1 or more collection containers may be charged a 1-time program  
87 administration fee not to exceed \$25 per collection container.

88 (e) On or before March 1, each thermostat manufacturer that has distributed, offered for  
89 final sale or sold at final sale any mercury-added thermostat within the commonwealth shall,  
90 individually or collectively, submit an annual report to the department that shall include, but not  
91 be limited to, the following information:

92 (i) the number of mercury-added thermostats collected and recycled by the  
93 manufacturer under this section during the previous calendar year;

94 (ii) the estimated total amount of mercury contained in the thermostat components  
95 collected by the manufacturer under this section in the previous calendar year;

96 (iii) an evaluation of the effectiveness of the manufacturer's collection program;

97 (iv) an accounting of the administrative costs incurred in the course of  
98 administering the collection and recycling program; and

99 (v) a list of all locations to which collection containers have been provided,  
100 including any locations which received containers during the year, and the date on which each  
101 location received a collection container.

102 (f) The department shall maintain and post on its website a list of all locations that are  
103 collection points for mercury-added thermostats.

104 In conjunction with any education and outreach programs implemented by  
105 manufacturers, the department may conduct an education and outreach program directed toward  
106 thermostat wholesalers, thermostat retailers, contractors and homeowners to promote the  
107 collection of out-of-service mercury-added thermostats.

108 (g) The department shall collect and maintain data on the collection and recycling  
109 programs established in subsection (d), including the number of mercury-added thermostats  
110 collected and recycled and the number of wholesalers, retailers, qualified contractors and local  
111 government authorities participating in the program. On or before September 30 of each year,  
112 the department shall prepare an annual report detailing the data collected under this subsection  
113 during the prior calendar year and shall file copies of those reports with the clerks of the senate  
114 and house of representatives and the co-chairs of the joint committee on environment, natural  
115 resources and agriculture.

116 SECTION 2. Section 6J 1/2 of said chapter 21H, inserted by section 3, is hereby repealed.

117 SECTION 3. From January 1, 2015 through December 31, 2022, each thermostat manufacturer  
118 that has distributed, offered for final sale or sold at final sale any mercury-added thermostat  
119 within the commonwealth shall, individually or collectively conduct education and outreach  
120 efforts including, but not limited to: (i) promoting the availability of collection containers to

121 thermostat wholesalers, thermostat retailers, qualified contractors and units of local government  
122 in the commonwealth; (ii) educating contractors, homeowners and other interested persons of the  
123 importance of properly managing out-of-service mercury-added thermostats and opportunities  
124 for the collection of those thermostats and the availability of manufacturer supported programs;  
125 (iii) providing signage to participating collection locations that can be prominently displayed to  
126 promote the collection and recycling of out-of-service mercury-added thermostats; and (iv)  
127 providing written materials or templates of written materials for reproduction by participating  
128 thermostat wholesalers and thermostat retailers to be provided to customers at the time of  
129 purchase or delivery of a thermostat. These materials shall include, but not be limited to,  
130 information on the importance of properly managing out-of-service mercury-added thermostats  
131 and opportunities for the collection of those thermostats. Each annual report required by  
132 subsection (e) of section 6J1/2 of chapter 21H of the General Laws shall include a description of  
133 the education and outreach efforts conducted under this section.

134 SECTION 4. Upon the completion of the first calendar year of the collection and recycling  
135 program established by section 6J 1/2 of chapter 21H of the General Laws, the department of  
136 environmental protection shall conduct an assessment and evaluation of that program, including  
137 the number of thermostats collected and proposed measures to increase that number in future  
138 years. The department of environmental protection shall, on or before December 31, 2016, file a  
139 report of its findings, including any recommendations of legislation, with the clerks of the senate  
140 and house of representatives and the co-chairs of the joint committee on environment, natural  
141 resources and agriculture.

142 SECTION 5. Notwithstanding any general or special law to the contrary, the regulations adopted  
143 by the department of environmental protection to implement subsections (d) and (e) of section 6J

144 of chapter 21H of the General Laws prior to the effective date of this act are hereby repealed, and  
145 all prior and future obligations of manufacturers under those regulations and under subsections  
146 (d) and (e) of said section 6J of said chapter 21H prior to the effective date of this act are  
147 terminated and not enforceable.

148 SECTION 6. Subsections (e) and (g) of section 6J 1/2 of chapter 21H of the General Laws,  
149 inserted by section 1, shall take effect on January 1, 2016.

150 SECTION 7. Subsection (f) of section 6J 1/2 of chapter 21H of the General Laws, as so inserted,  
151 shall take effect on July 1, 2016.

152 SECTION 8. Section 2 of this act shall take effect on December 31, 2022.